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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/604,805 | 08/18/2003 | Marty Williams | hardpoint | 1804 |
| 23217 | 7590 | 06/16/2005 | EXAMINER | |
| GLENN L. WEBB P.O BOX 951 CONIFER, CO 80433 | | | AVERY, BRIDGET D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3618 | |

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/604,805 | | WILLIAMS ET AL. | |
| | Examiner | | Art Unit | |
| | Bridget Avery | | 3618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>02/28/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species I (Figures 1-5); Species II (Figures 6-8); Species III (Figures 9-11); Species IV (Figures 12-14); Species V (Figures 15 and 16); Species VI (Figure 17); Species VII (Figures 18); Species VIII (Figures 19-22); Species IX (Figures 23 and 24) and Species X (Figures 25-29).
2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.
3. During a telephone conversation with Glenn L. Webb on June 6, 2005 a provisional election was made with traverse to prosecute the invention of Species V (Figures 15 and 16), claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. No claims are being withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

DETAILED ACTION

Specification

- The disclosure is objected to because of the following informalities: In the description of Figure 24 applicant should replace "the present invention" with --Fig. 23--.
4. In paragraph [0043], line 1, a comma should be inserted between "968" and "974".

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5. In paragraph [0046], line 8, "FIG. 13" should be –Fig. 13 and FIG. 14—.
6. In paragraph [0046], line 13, "FIG. 14" should be changed to –FIG. 15—.
7. In paragraph [0048], line 2, "FIG. 16" should be changed to –FIG. 17—.
8. In paragraph [0050], line 2, "FIG. 17" should be changed to –FIG. 18—.
9. In paragraph [0054], line 2, "FIGS. 18 21" should be changed to –FIGS 19-22--.

Appropriate correction is required.

Claim Objections

10. Claims 1-12 are objected to because of the following informalities: applicant's recitation of "said carrier comprising a vehicle" should be amended to recite --A carrier system—or –A carrier arrangement--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2, 4, 6, 8-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. (US Patent 6,308,874).

Kim et al. teaches a carrier arrangement similar to applicant's including:

- A vehicle (12) having a roof top (14) and a rear carrier surface (16) (see column 5, lines 3-15)

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- Elongated frame members (20, 22)
- A C-shaped slot (46, 48) in the elongated frame members (20, 22)
- Sports equipment mounting hardware (24) mounted to the slot (46, 48)
- At least one hook (76, 78) for attaching member (64); note, member (64), which is similar to members (60, 62) is can be used to secure cargo when straps, as taught in column 3, line 62 are used to secure cargo
- Hardware for attaching a compartment to the elongated frame members (20, 22), as taught in column 3, lines 51-64

12. Claims 1, 2, 4-6, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bott (US Patent 4,433,804).

Bott teaches a carrier arrangement similar to applicant's including:

- A vehicle (10) having a roof top and a rear carrier surface (note, mounting a carrier to the roof or trunk lid of a vehicle is conventional, as taught in column 1, lines 14-26)
- Elongated frame members (64, 65)
- A C-shaped slot (66) in the elongated frame members (64, 65)
- Equipment/cargo mounting hardware (98) mounted to the slot (66)
- At least one loop (120) for attaching cargo securing devices (124)
- Hardware (130) for attaching a compartment (12) to the elongated frame members (64, 65), as taught in column 3, lines 51-64

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13. Claims 1, 2, 4, 5, 8, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kowalski et al. (US Patent 4,245,764).

Kowalski et al. teaches a carrier arrangement similar to applicant's including:

- A vehicle having a roof top carrier surface or a trunk lid carrier surface, as taught in column 3, lines 14-16
- A carrier (12) including elongated frame members (14)
- A C-shaped slot (30) in the elongated frame members (14)
- Equipment mounting hardware (74) mounted to the slot (30)
- Equipment mounting hardware including at least one loop (see column 1, lines 65-68) for attaching cargo/luggage securing devices and sports equipment
- Regarding claim 12, luggage is a compartment

14. Claims 1, 3, 4, 6, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Dixon et al. (US Patent 6,099,232).

Dixon et al. teaches a carrier arrangement similar to applicant's including:

- A vehicle (300) having a rear vehicle carrier surface (truck bed 302)
- Elongated frame members (120A, 120B)
- A C-shaped slot (as taught in column 7, lines 28-30) in the elongated frame members (120A, 120B)
- Equipment/cargo mounting hardware (130) mounted to the slot
- Hardware (110) for attaching a compartment (112) to the elongated frame members (120A, 120B), as shown in Figures 1-3

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bott ('804) in view of Bott (US Patent 4,239,139).

Bott teaches the features described above. Bott further teaches a clamp (94) but is silent regarding a spring nut. See Figures 3.

Bott teaches a clamping plate (36) having some upward curvature from a threaded bore (35) to its edges. The upward curvature provides a degree of spring force when the stud (34) is threadably engaged within the bore (35).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made to replace the clamp of Bott to the clamping plate taught by Bott to prevent longitudinal sliding movement of the clamps when the associated studs are disengaged from the threaded bores of the clamp. The combination of Bott and Bott disclose the claimed invention except that the combination teaches a clamping plate capable of providing a spring force instead of a spring nut. The combination of Bott and Bott shows that the clamping plate is an equivalent structure known in the art.

Therefore, because these two devices were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a clamping plate for a spring nut.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Egly et al. shows a bicycle carrier.

Rasor et al. shows an adjustable cross rail for luggage carrier.

Stapleton et al. shows an article carrier with adjustably positionable bracket.

Parker shows a ski rack device for pickup trucks.

Luck shows a rack for bicycles.

Ferguson et al. shows a tiedown bracket with ratchet disc.

Ingram shows a slidable bracket for article carrier.

Gerber et al. shows a bicycle carrier for automobiles.

McLain shows a foldable bicycle rack.

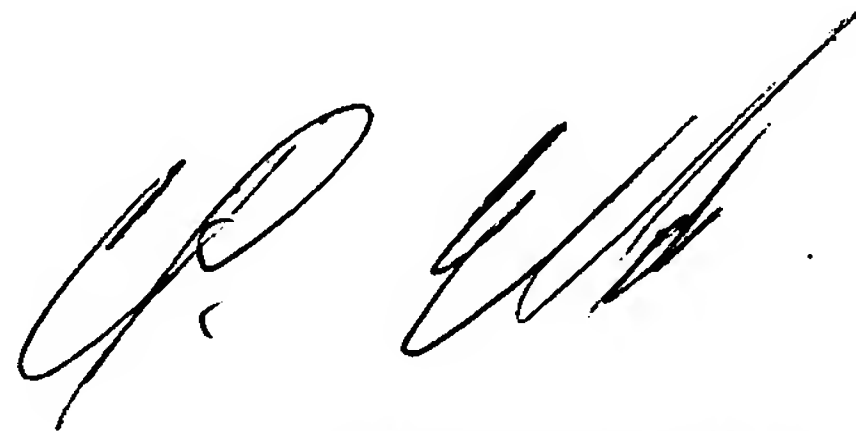
Berger shows a bumper mounted rack.

Grycel, III shows a removable luggage rack fastening means.

17. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery

June 8, 2005



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